

## 48A C.J.S. Judges § 89

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

## IV. Standards of Conduct; Restrictions and Prohibitions

### A. In General

#### § 89. Interpretation or construction of canons and codes

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(2), 21, 24

**When the language of a canon under a judicial code of ethics is clear and unambiguous, the plain meaning of the canon is to be accepted and followed without resorting to interpretation or construction.**

The code of judicial conduct serves to maintain the integrity of the judiciary and the rule of law and should be construed and applied to further the preservation of the integrity and independence of the judiciary.<sup>1</sup> The rules governing judicial conduct will be construed broadly, consistent with their purpose of maintaining public confidence in the judicial system.<sup>2</sup>

When the language of a canon under a judicial code of ethics is clear and unambiguous, the plain meaning of the canon is to be accepted and followed without resorting to interpretation or construction.<sup>3</sup> When interpreting the Code of Judicial Conduct, no word is to be regarded as surplusage.<sup>4</sup> If interpretation of a canon is necessary, it should not be unconstitutionally overbroad.<sup>5</sup>

A state supreme court's commentary on the text is as much a part of the Canons of Judicial Ethics as the text itself.<sup>6</sup>

Under a code of judicial conduct, permissible guidelines are indicated by use of the word "may" whereas mandatory provisions are set forth by use of the word "should."<sup>7</sup> The language of judicial canons is not merely hortatory or advisory, even though they the word "should," rather than "shall" is used.<sup>8</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

A Code of Judicial Conduct (CJC) rule must be interpreted in the context of the entire CJC and with the intent of the canons in mind. [Matter of Keenan, 502 P.3d 1271 \(Wash. 2022\)](#), as amended, (Feb. 11, 2022).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 Ga.—[Mayor & Aldermen of City of Savannah v. Batson-Cook Co.](#), 291 Ga. 114, 728 S.E.2d 189 (2012).
- 2 N.J.—[In re Advisory Letter No. 3-11](#), 215 N.J. 495, 73 A.3d 1244 (2013); [In re Boggia](#), 203 N.J. 1, 998 A.2d 949 (2010).
- 3 W. Va.—[In re Tennant](#), 205 W. Va. 92, 516 S.E.2d 496 (1999).
- 4 State v. Ortiz, 83 Conn. App. 142, 848 A.2d 1246 (2004).
- 5 Ohio—[In re Complaint Against Harper](#), 77 Ohio St. 3d 211, 673 N.E.2d 1253 (1996).
- 6 Mo.—[Weinstock v. Holden](#), 995 S.W.2d 408, 91 A.L.R.5th 715 (Mo. 1999).
- 7 Ohio—[Cuyahoga County Bd. of Mental Retardation v. Association of Cuyahoga County Teachers of Trainable Retarded](#), 47 Ohio App. 2d 28, 1 Ohio Op. 3d 168, 351 N.E.2d 777 (8th Dist. Cuyahoga County 1975).
- 8 Ohio—[In re Complaint Against Harper](#), 77 Ohio St. 3d 211, 673 N.E.2d 1253 (1996).